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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	No. CR 07-0478 SI
Plaintiff,)	UNITED STATES' SENTENCING
)	MEMORANDUM
v.)	
ERNESTO ALBERTO-GONZALEZ,)	Date: October 19, 2007
)	Time: 11:00 a.m.
Defendant.)	

Defendant Ernesto Alberto-Gonzalez has pleaded guilty to a single count of illegal reentry after deportation, in violation of 8 U.S.C. § 1326(b), pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure. He is scheduled to be sentenced by this Court on October 19, 2007. This plea has been entered under the fast track program in the Northern District of California. U.S.S.G. § 5K3.1. Based on the terms of the fast track program, the plea agreement entered into in this case, and defendant's criminal history category, the United States respectfully requests that this Court sentence defendant to 51 months imprisonment, three years of supervised release, and a \$100 special assessment.

UNITED STATES' SENTENCING MEMORANDUM
CR 07-0478 SI

A. The Applicable Sentencing Range Under the Guidelines is 51-63 Months.

Under the Sentencing Guidelines, defendant's base offense level for the instant offense is 8. U.S.S.G. § 2L1.2(a). Defendant's prior conviction for a felony that is a drug trafficking offense for which the sentence imposed exceeded 13 months results in an increase of 16 levels. U.S.S.G. § 2L1.2(b)(1)(A). Defendant receives a three-point adjustment for acceptance of responsibility, U.S.S.G. § 3E1.1, and an additional four point fast track adjustment. U.S.S.G. § 5K3.1. These calculations result in a fast track offense level of 17. As calculated by the Probation Office, defendant's criminal history category results in 17 criminal history points, which places him in criminal history category VI under the Sentencing Guidelines. U.S. Sentencing Guidelines Manual ch. 5, pt. A. Combining these figures yields a sentencing range of 51-63 months under the guidelines. *Id.*

B. A Sentence of 51 Months is Reasonable Here.

The United States urges this Court to accept the low-end guidelines sentence agreed upon in the plea agreement. Such a sentence is well supported by the sentencing factors of 18 U.S.C. § 3553(a). It would provide appropriate punishment for defendant's offense, afford adequate deterrence to future criminal conduct, and protect the public from further crimes by the defendant. As the PSR demonstrates, defendant has a long history of drug offenses. PSR ¶¶ 6-14.

Also important here is the sentencing factor that requires a court to consider "the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct[.]" 18 U.S.C. § 3553(a)(6). Especially given defendant's many prior drug convictions, the guidelines sentence recommended by the government would meet this sentencing factor. A below-guidelines sentence would not. For these reasons, the United States

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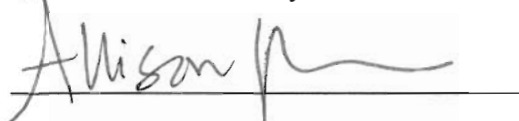
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1 respectfully asks this Court to sentence defendant to 51 months imprisonment, three years
2 supervised release, and a \$100 special assessment.

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4 DATED: October 15, 2007

Respectfully submitted,

5 SCOTT N. SCHOOLS
6 United States Attorney

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8 ALLISON MARSTON DANNER
9 Assistant United States Attorney

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee of the office of the United States Attorney, Northern District of California and is a person of such age and discretion to be competent to serve papers. The undersigned certifies that she caused copies of

UNITED STATES' SENTENCING MEMORANDUM

in the case of **UNITED STATES V. ERNESTO ALBERTO-GONZALEZ, CR 07-0478 SI** to be served on the parties in this action, by placing a true copy thereof in a sealed envelope, addressed as follows which is the last known address:

**Geoffrey Hansen
Assistant Federal Public Defender
450 Golden Gate Avenue, 19th Floor
San Francisco, CA 94102**

X (By Personal Service), I caused such envelope to be delivered by hand to the person or offices of each addressee(s) above.

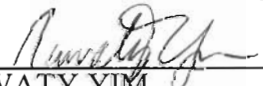
____ (By Facsimile), I caused each such document to be sent by Facsimile to the person or offices of each addressee(s) above.

____ (By Mail), I caused each such envelope, with postage thereon fully prepaid, to be placed in the United States mail at San Francisco, California.

____ (By Fed Ex), I caused each such envelope to be delivered by FED EX to the address listed above.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: October 15, 2007



RAWATY YIM
United States Attorney's Office